

## COMMITTEE REPORT

**Date:** 13 October 2022  
(postponed from 13  
and 26 September  
2022)

**Ward:** Guildhall

**Team:** East Area

**Parish:** Guildhall Planning Panel

**Reference:** 21/02758/FUL

**Application at:** Central Library Gardens Museum Street York

**For:** Change of use of land to form a 12-hole mini-golf course for a period of 7 years

**By:** Mr D Finch

**Application Type:** Full Application

**Target Date:** 31 August 2022

**Recommendation:** Refuse

### 1.0 PROPOSAL

#### THE SITE

1.1 The application site is Library Lawn, to the south-west side of the York Explore Library on Museum Street. The site is bounded by a section of the city walls to the west and north, the library to the east, and the remains of St Leonard's Hospital to the south. The site is accessed from the front of the Library through a gated railed entrance, and through a breach in the city walls from the Museum Gardens.

1.2 The site is part of the historic Mint Yard enclave, lying wholly within and forming part of the City Walls scheduled monument. The site is bounded by the St Leonard's Hospital Remains to the south-east (Grade I), the Multangular Tower and City Wall (Grade I) to the south-west, the Central Library (Grade II) and the Anglian Tower (Grade I) to the north-east. The City Wall from the Multangular Tower to the rear of No.8 St Leonards Place is separately listed as Grade I and lies to the north of the site. Abutting the site to the south lies the Museum Gardens, a Registered Park and Garden (Grade II). Whilst the Multangular Tower and City Wall are within the listed Registered Park and Garden, Library Lawn falls outside. The site lies within the

Central Historic Core Conservation Area and the City Centre Area of Archaeological Importance.

1.3 The site is in flood zone 1 (low risk of flooding). The Publication Draft Local Plan identifies the site as 'existing open space' on the Policies Map (City Centre Inset).

## **PROPOSAL**

1.4 The application is for a 12-hole mini-golf course for a period of seven years on the Library Lawn. The site of the golf course is roughly rectangular in shape with a 6m buffer to the St Leonards Hospital Remains and a 6m buffer to the Multangular Tower. The revised site plan shows the course and landscaping extending right up to the City Walls with the previous 2m grass margin shown on earlier plans now removed. The footpath running parallel to the Central Library and connecting to Museum Gardens is proposed to be resurfaced from gravel to an in-situ cast concrete 'slab' finish.

1.5 The mini-golf course would have a historic theme, with each hole denoting a significant element of York's history in chronological order from Roman, Anglian, Viking and Norman York through to Georgian, Victorian and 'Chocolate' York. Each hole would have an information board for the time period reaching up to 900mm in height. The boards would be of timber construction.

1.6 Paths within the mini-golf game would be coloured and textured concrete with a flagstone effect imprinted in its surface, brown resin flexi-pave to resemble a medieval track and rubber mulch. Buff curb stones are proposed to line an artificial grass carpet surface for the holes themselves in 'lawn green'. A number of models would line the holes; Viking boat, Clifford's Tower, Bar Walls, canon, all made from 'art concrete' in a range of colours and finishes. The scheme includes planting to reflect historic events (e.g. red and white roses for 'War of the Roses' hole). Operational development would be limited to a maximum depth of 300mm. The mini-golf would be fully wheelchair accessible. The existing dedicated benches would be restored and maintained rather than replaced.

1.7 The applicant states that 1 full time and 3 part-time jobs would be created. The facility would be open 7 days per week from 10:00 hours to 20:00 hours (summer) with spring closing at 18:00 hours and winter at 15:00 hours. No external lighting is proposed.

1.8 The applicant has indicated that part of the area in the St Leonard's Hospital undercroft will be used as a ticket office and for storage of clubs, however this is not included in the application. The agent advised it would be a person with a ticket machine carrying balls and clubs situated by the course. It is anticipated that once the temporary permission expires, the lawn will be reinstated.

1.9 The application has been called in for determination at Planning Committee B by Councillor Looker because of the sensitive nature of the site which she feels demands clear debate on the proposed change of use.

## **2.0 POLICY CONTEXT**

### Publication Draft Local Plan (2018)

D1 Placemaking

D4 Conservation areas

D5 Listed buildings

D6 Archaeology

D8 Historic Parks and Gardens

D10 York Walls

GI1 Green Infrastructure

GI5 Protection of open space and playing fields

## **3.0 CONSULTATIONS**

### Design, Conservation and Sustainable Development (Conservation Officer)

3.1 The mini-golf course would introduce a novel and artificial landscape design, incongruous materials and forms of activity into the Library Lawn area, the course representing a much busier landscape. The formal rectilinear character of the space as a neutral setting and green foil to the designated heritage assets of the highest significance will be lost, as well as to the setting of the Grade II listed buildings, historic park and causing harm to character and appearance of this part of the conservation area. The close proximity of miniature buildings and artificial materials to the authentic monuments would be architecturally and aesthetically confusing, and this would have a discordant effect on their setting. The golf course, which would extend close to the base of the City Wall, would interfere with access to the north side of the Wall and the use of the Lawn area for quiet enjoyment.

3.2 The proposed development is not temporary in planning terms. The harm is therefore not considered to be temporary. The application contains no evidence for the extent or nature of anti-social behaviour within the Library Lawn area and that the mini-golf course would have a deterrent effect and thus the harm is not clearly justified. In fact it could increase anti-social activity including climbing on or vandalising the monuments. It is not a form of conservation-led management of the area.

3.3 The officer identifies a moderate level of harm to the aesthetic and communal heritage values of the site within the less than substantial category. Considering public benefits, including historic interpretation to a wider audience and possibly as a deterrent to anti-social activity, these are of marginal quality and do not outweigh the moderate level of harm identified to the setting of the heritage assets of the highest significance.

#### Design, Conservation and Sustainable Development (Archaeologist)

3.4 With a maximum construction depth of 30cm, there would not be any impact on significant archaeological levels. However there is a Roman Oven situated between the Undercroft and Multangular Tower on this site, within 2m of the Roman Wall and this is not shown on the plans. The proposed scheme must not impact on the Oven and it must remain in-situ.

3.5 While there is no harmful archaeological impact anticipated there will be an above-ground impact in regard to the setting of the surrounding monuments. Whilst there are some benefits of the proposal, including greater engagement of the heritage assets with a wider audience, a fun activity, and potential deterrent to anti-social behaviour, there are some aspects which will remain a concern such as the loss of a tranquil space and the potential impact on the setting of the surrounding structures. Should planning permission be granted, the course must be maintained to a high standard and this still needs to be addressed. Scheduled Monument Consent (SMC) from Historic England is required. A condition for an archaeological watching brief should be attached to any permission.

#### Design, Conservation and Sustainable Development (Landscape Architect)

3.6 The library gardens is a relatively tranquil open space from which views of the surrounding buildings and structures can be appreciated from any location of choice within the garden. The expanse of grass surface is an effective, simple foil that

unites a complex collection of juxtaposed, historic buildings and ancient monuments. The existing landscape is appropriate.

3.7 The space is secluded, and lacks public invitation, by way of its relatively hidden situation and gated points of entry. The southeast corner of the garden is accessed through a pair of iron gates set back between St. Leonard's hospital and the front elevation of the library. There is another very discreet, elevated, access point from the north, an entrance that is almost hidden from within museum gardens. The seclusion provides a tranquil lawn, hidden from Museum Street and Museum Gardens; somewhere to rest, meet, take in the sounds of nature. The library gardens is a simple open space from which views of the surrounding buildings and structures can be appreciated, in relative stillness, from any location of choice within the garden.

3.8 Crazy golf is a fun activity, and in this case, informative as well. However, the proposed development would change the character and nature of the site, both in its appearance and the level and type of activity. The binding quality of the lawn would be lost, and the peaceful atmosphere offered by the simple green space, adjacent to the sights and sounds of nature within Museum gardens, would be vastly diminished. The very nature of the proposed development would introduce a busy and slightly chaotic arrangement of objects and planting; all of which would be of a very different scale to the very real, bold structures around it. This is mitigated by the temporary nature of the proposed development (although 7 years is a long time frame). The proposals are unlikely to pose a significant risk of harm to the large mature Sycamore tree on the southwest boundary of the site.

### Public Protection

3.9 A noise survey was requested to understand whether it is likely that noise nuisance would arise from the customers of the mini-golf for users of the library. Following the submission of a noise report, the environmental health officer advised that he was satisfied that the mini-golf would not result in significantly increased noise levels and that it would not have a negative impact upon the use of the library nor local residents. A condition restricting hours of use is recommended and a standard condition on the finding of unexpected contaminated land.

## **EXTERNAL**

### Historic England

3.10 The application site is a sensitive city centre location within the nationally important Scheduled Monument of 'St Mary's Abbey', the Central Historic Core Conservation Area, the Area of Archaeological Importance and being immediately adjacent to the grade II listed public library. Scheduled Monument Consent will be required in addition to any planning permission before works can commence.

3.11 The archaeological potential of the site has been clearly established through several phases of archaeological training excavation, demonstrating that there is a paucity of remains until considerable depths have been reached. The lawn is a popular recreational space for York residents in summer and is often used as short cut between the Museum Gardens and city centre. However, the undercroft and space behind the library both suffer from a degree of anti-social behaviour making the whole area less welcoming than is desirable.

3.12 In construction terms the physical impact of the mini-golf course on the standing fabric and buried archaeological deposits is inconsequential. The infrastructure and features of the proposed mini-golf course are all low-level. As currently conceived, any harm to designated heritage assets is 'less than substantial'. The physical impact of the proposal on the archaeology of the site is known to be acceptable and it could be argued that the impact on 'setting' is also beneficial in that it could transform a sometimes intimidating space into something active, positive and inclusive.

3.13 The plans are only 'illustrative' and therefore the proposal represents 'less than substantial harm' to the significance of the site, albeit at the very 'slight' end of harm. Given the sensitivity of the city centre location it is essential that the details of all the elements of the scheme are confirmed in order to ensure that the quality of the final scheme does not detract from the setting of the surrounding listed buildings and the character of the adjoining registered park and garden. HE consider that this aspect of the application can be dealt with by condition. No objection to the application on heritage grounds.

#### Council for British Archaeology

3.14 This is a highly significant site in central York, in close proximity to a large number of designated heritage assets with communal significance. The proposed works are unlikely to impact on any significant archaeological remains, and therefore no objections are raised. The Library Gardens have been the site of antisocial

behaviour and the proposed change of use may deter much of this activity. Its proposed use for a recreational activity can also be seen as a modern progression of its nineteenth-century role as a designed pleasure landscape. The theming of the site around the city's history may offer an entertaining alternative form of heritage engagement, particularly for younger visitors.

3.15 However, in order to ensure it makes a positive contribution to the site's setting, there must be a comprehensive management plan in place as if the installation becomes tatty it will detract from the appearance of the setting. Details plans must be agreed with ensure that the proposed new features of the golf course leave open, as far as possible, lines of sight to key parts of the historic setting. As the commercialisation of the site makes it less accessible to residents, we welcome the application for only a temporary consent.

### Historic Buildings and Places

3.16 Historic Buildings and Places considers that the impact of the mini-golf course on the surrounding above and below ground heritage assets would be at the lower end of 'less than substantial harm'. They request further details of the ticket office and club storage proposed for St Leonard's undercroft and whether alterations to the structure are required, where WC facilities will be and what security arrangements will be in place.

### Yorkshire Gardens Trust

3.17 The Museum Gardens were laid out by Sir John Murray Naesmyth for the Yorkshire Philosophical Society in 1844. They were designed as pleasure grounds to provide a setting for the Yorkshire Museum (listed grade I) and the many ancient monuments in its vicinity and to incorporate botanical gardens.

3.18 The Central Library Lawn is a secluded green space adjacent to the much more-busy Museum Gardens. It is a valued space from which to view and appreciate the Roman Walls and their full evolutionary history as the city walls from Roman to Medieval, the interior of the Multangular Tower and the remains of St Leonard's Hospital, and therefore it also contributes positively to the setting of these buildings and structures. The introduction of a mini-golf course will detract from the heritage assets and their setting and introduce a visually and audibly distracting environment. The proposed development would affect the aesthetic and communal heritage values of the site.

3.19 The timescale of seven years is not temporary and such commercial development may continue for longer once established. This could lead to a permanent change in the aesthetic and communal characters of the site so that future decisions would be based on the character of the site as it then was, not on its current character.

3.20 The Gardens Trust object to the proposal. The proposed location is far too sensitive for such a proposal; totally the wrong place. The proposal is contrary to the NPPF 2021 paragraphs 199, 200, and 202, as the harm to the significance of the designated heritage assets is not outweighed by any public benefits of the proposal. Other locations should be explored in less historically sensitive areas.

#### Guildhall Planning Panel

3.21 The Panel objects to the application on the grounds of loss of green space for locals to enjoy, being currently a freely accessible green quiet space which would be lost to commercial enterprise. The proposed development is out of character with this important part of the historic city wall and the Multangular Tower. It is unclear where toilet facilities will be provided.

#### Conservation Areas Advisory Panel

3.22 Whilst the Panel could understand a proposal to provide a mini-golf facility for tourists within the city this was considered to be totally the wrong location. The area alongside the Library and the wall is a valuable local amenity, an area of peace and tranquillity and important to the setting of the adjacent structures. A more suitable site for a mini-golf could be within the Museum Gardens or to the rear of the Art Gallery.

#### York Civic Trust

3.23 York Civic Trust object in principle and consider Library Lawn an inappropriate location for a mini-golf course due to its highly sensitive historic location being within the setting of seven designated heritage assets, and for its value as a secluded green space in the centre of York. The Lawn is the foremost location from which to appreciate the Roman Walls and interior of the Multangular Tower, as well as providing access to part of the remains of St Leonard's Hospital. It is an area of green space which contributes positively to the setting of the buildings and

structures surrounding it. At present, the open space of the Lawn is the sole location in the city to see the full evolutionary history of the city walls from Roman to Medieval. It is enjoyed for its quieter and secluded green space. Therefore, any changes made to Library Lawn should be considered in the wider context of its setting and relationship with the surrounding designated heritage assets. The introduction of a mini-golf course to the Lawn would have a negative impact on the surrounding designated heritage assets as it would introduce elements of modern commercial activity and entertainment to a sensitive historic location. There is also a loss of a much-needed green space.

3.24 The introduction of a mini-golf course would compromise this setting and detract from the primary focus of the City Walls and St Leonard's hospital remains. This impact on the setting, and therefore the conservation of the designated heritage assets is not sufficiently justified, nor is the choice of the site. Therefore, the proposal does not conform to the requirements of paragraphs 199 or 200 of the NPPF, as clear and convincing justification for the development has not been given.

## **4.0 REPRESENTATIONS**

### Neighbour Notification and Publicity

4.1 Four letters of support have been received from three interested parties. Sixty-seven letters of objection have been received to the proposed mini-golf on the following grounds:

#### Conservation

- Entirely inappropriate for this historic and important site, which is of outstanding national importance. The structures should not be trivialised or denigrated.
- Appropriate for Disneyland or Scarborough Pleasure Beach, not here. A garish tasteless themed playground.
- The proposals cheapen York's image and cause damage to the city's reputation as a cultural destination with international tourists coming to see physical history, not childish amusements.
- York has one of the most extensive sequences of above ground Roman remains in Europe. It is one of the best historical sites in the country that attracts millions of tourists every year. Why spoil it?

- York's Association of Voluntary Guides provides two free tours each day of the city centre and they state that 'It's Mint Yard that grabs tourists' interest'.
- The Guides also provide academic talks for visiting universities in Mint Yard.
- The quiet seclusion provides the perfect setting for the tour guides to explain York's 2000 year old history in one place. The noise and activity will distract from the tours.
- A crazy golf-based history is not appropriate in the midst of Roman and medieval ruins. The site's dignity, history and culture should be protected.
- Proposals are contrary to paragraphs 199 and 200 of the NPPF. The grounds for accepting any harm should be exceptional for scheduled monuments, grade I or II\* listed buildings, this is certainly not exceptional. The harm is not justified.
- Harm to the character and appearance of the conservation area.
- Proposal will obstruct clear views of the historic site.
- St Leonard's hospital should not be used as a ticket office.
- Concrete pads will be built over much archaeology, with concerns future archaeological digs will be damaged. The Roman oven will become invisible.
- York University has just begun a two year conservation study of Roman walling and this study could be affected by the mini-golf.
- Whilst there is no physical harm to the surrounding heritage assets, there is harm to people's experience of them, by changing their setting.
- Too much clutter.
- A crazy golf course will encourage children to climb on the ruins.
- Potential damage to the ruins from golf balls being hit on them / needing to be collected and the increased visitors to the area. Potential damage to the library windows.

#### Noise and disturbance

- Noise disturbance for local residents and library users.
- A community focused activity for the space, aligned to the users of the library would be more appropriate.
- The mini-golf is likely to encourage further anti-social behaviour, rather than detract it. Considered an ideal hen and stag activity.
- Concerns that floodlighting will be necessary.

#### Loss of public open space/access

- Loss of community accessible open space including immediate residential neighbours who do not have outside space.
- The commercialisation of this public open space is not the best use of this space. It would be better as a multi-use location for a variety of temporary community, arts and cultural events (e.g. Northern Girls Theatre Project who found it the perfect stage setting).
- Crazy golf will provide for tourists, not local people who may only go to once, or be priced out of using.
- The Museum Gardens (including this space) is the most tranquil and peaceful place in the city. It is enjoyed as such by residents, city centre workers and visitors as a peaceful place to sit, read and picnic and appreciate the historical surrounds. Crazy mini-golf will completely spoil it and is contrary to CYC's published cultural strategy. It is the most precious area of the city.
- Concerns that the operators will lock the gates into the Library Lawn and only permit customers of the mini-golf in, thereby preventing public access to the ruins.
- Value of keeping some relatively 'unknown' places in York – although it is used. Don't fill every green space with tourist activities.
- Value for residents and visitors by being quiet and beautiful, benefitting mental well-being.
- Retaining benches and small sections of lawn whilst providing mini-golf course will not mitigate against the overall loss of tranquillity and peaceful setting of the beautifully enclosed space.

#### Not temporary

- 7 years is not a temporary facility.
- Space will be lost indefinitely to commercial use.
- There will be no other community/cultural uses permitted on the space such as York Bloom Festival.

#### Proposed benefits

- Repair of the benches is not sufficient mitigation to the harm.
- Applicant states landscaping will be to a higher standard, but the lawn is appropriate and formal planting is not appropriate here. Landscaping around the perimeter will obstruct views of the historic setting and the walking route on grass along the Roman Wall.

- Loss of valued open tranquil space and benefits for users for mental health and well-being. Mini-golf not a benefit for existing users of the space.
- The existing path is flat and firm enough to be accessible by wheelchair, although it could be improved. However the proposals still lead to steps into the Museum Gardens and a steep ramp down which is not wheelchair friendly so this entrance remains inaccessible to wheelchair users.

### Other

- The interpretative value of the golf course is questionable, and the historical theme of little or no educational value.
- Unlikely that anyone would interrupt their game of Crazy Golf to read all the information boards. They would be more effective if placed elsewhere and sponsored by local firms.
- A variety of alternative locations suggested.
- There are alternative mini-golf courses already operating within the city centre and at Monks Cross.
- There are no WC facilities and those in the library not sufficient for extra customers.
- CYC have declared a climate emergency but there is a lot of concrete proposed and no attempt to reduce carbon emissions.
- The proposed mini-golf hours of opening align with the existing hours of opening and therefore is no access to the space without the golf in operation.
- Concerns that people will try and drop-off mini-golf customers in front of the Library, which is already used as a drop off and waiting area (unauthorised), exacerbating problems for local residents.

## **5.0 APPRAISAL**

### **KEY ISSUES**

#### 5.1 The key issues are:

- Impact on designated heritage assets
- Design
- Loss of open space
- Loss of community facility
- Noise and disturbance

## Legislation

5.2 Section 66 of the Planning (Conservation Areas and Listed Buildings) Act 1990 requires that the local planning authority in determining planning applications for development which affects a listed building or its setting, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of a conservation area.

## Planning Policy

### National Planning Policy Framework 2021

5.3 The National Planning Policy Framework was re-published in July 2021 (NPPF) and its planning policies are material to the determination of planning applications.

5.4 The NPPF sets out the Government's overarching planning policies. Paragraph 7-11 explains that the purpose of planning is to contribute to achieving sustainable development. Development proposals that accord with an up-to-date development plan should be approved without delay. Where there are no relevant development plan policies or where they are out of date, planning permission should be granted unless policies in this framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole. If the proposal conflicts with the application of NPPF policies relating to designated heritage assets, this presumption in favour of development does not apply (in accordance with footnote 7).

### Publication Draft Local Plan (February 2018)

5.5 The Publication Draft Local Plan 2018 (eLP) was submitted for examination on 25 May 2018. Phases 1 and 2 of the hearings into the examination of the Local Plan have taken place with phase 3 now underway and phase 4 scheduled for autumn 2022. In accordance with paragraph 48 of the NPPF the Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

### Central Historic Core Conservation Appraisal (2012)

5.6 The Conservation Area Appraisal forms one of a suite of documents forming the evidence base for the draft Local Plan. It therefore carries some limited weight in planning decisions, but highlights an agreed approach to conservation in the city centre.

## **ASSESSMENT**

### Impact on designated heritage assets

#### *National Planning Policy Framework (2021)*

5.7 The NPPF 2021 at Section 16, paragraph 189 states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses, consistent with their conservation; the positive contribution they can make to sustainable communities, including their economic vitality, and the positive contribution new development can make to local character and distinctiveness (para. 198).

5.8 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any harm amounts to substantial, total loss or less than substantial harm to significance (para. 199). Any harm to, or loss of, the significance of a designated heritage asset (including development within its setting) should require clear and convincing justification. Substantial harm to grade II registered parks and gardens should be exceptional, and to assets of the highest

significance (scheduled monuments, grade I and II\* listed buildings) should be wholly exceptional (para. 200).

5.9 Where a proposed development will lead to substantial harm to a designated heritage asset, planning permission should be refused (para. 201). Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal (para. 202). New development within conservation areas and the setting of heritage assets should enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably (para. 206).

Publication Draft Local Plan (2018)

5.10 The following emerging policies are relevant:

- Policy D4 states that development proposals should preserve or enhance the special character and appearance of the conservation area and better reveal its significance, and respect important views. Harm to buildings, open spaces, views or other elements which make a positive contribution to a conservation area will only be permitted where this is outweighed by substantial public benefits.
- Policy D5 requires development affecting listed buildings and their settings to preserve, enhance, or better reveal those elements which contribute to its significance, and the more important the building, the greater weight attached to its conservation. Any harm to an element of significance, must be outweighed by public benefits.
- Policy D6 protects archaeology and requires development not to result in harm to the significances of the site or its setting and should enhance it.
- Policy D8 requires development proposals affecting a registered historic park and garden and their wider setting to not harm the layout, design, character, appearance or setting of the park or garden, or key views into or out from the park, are sensitive to the original and subsequent layers of design and evolution of the park and would enhance or better reveal significance. Harm must be outweighed by public benefits.

- Policy D10 states that development proposals within the areas of York Walls designated as Scheduled Monuments will be supported where they are for the specific purpose of enhancing physical and intellectual access to York Walls. Development proposals adjacent to or likely affect the setting of the City Walls Scheduled Monuments should not cause harm to the significance or setting of York Walls, and must be of the highest design quality and where possible, enhance significance.

### *Central Historic Core Conservation Area Appraisal*

5.11 The appraisal identified the Multangular Tower and St Leonards Hospital remains as key assets in the area. It states that Museum Gardens has a unique ambience in the city where visitors and locals can relax and absorb the natural and historic elements of the surrounds. It identifies an opportunity to improve links between the library and St Leonard's Hospital and the Multangular Tower as a route into Museum Gardens. This small green space (Library Lawn) could be enhanced for library users and is shown as an opportunity of for 'public space improvements'.

#### Context

5.12 The application site is part of the historic Mint Yard enclave, lying within the City Walls scheduled monument, bounded by the ruins of St Leonard's Hospital (Grade I listed) to the south-east, the Multangular Tower and City Wall (GI) to the southwest, the Central Library building (GII) and the Anglian Tower (GI) to the north-east. Abutting the site to the south lies the Museum Gardens, a Registered Park and Garden (GII). The site lies within the heart of the central historic core conservation area. The Mint Yard Conservation Management Plan (2012) prepared by Simpson and Brown for City of York Council in connection with the extension of the Library to accommodate the City Archives is referenced by the conservation officer as it sets out an agreed set of aspirations and principles for the space.

5.13 Mint Yard occupies the west corner of the Roman legionary fortress of Eboracum, c. AD71, and the Multangular Tower is believed to date from the second century. It is possible that the hospital of St Peter (St Leonard from the later twelfth century) was established here in 936, and it existed during the post-Conquest period until the Reformation, becoming a very large hospital during the medieval period. The earliest infirmary of the hospital occupied the site of the Library Lawn probably in the eleventh century, and was extended with the infirmary undercroft and chapel

to the south-east at the beginning of the fourteenth century, the remains of which survive. Soon after the Dissolution, the Crown established the Royal Mint there 1546-1553, the association surviving in the 'Mint Yard' name for the area, still identified as such on maps of the late nineteenth century.

5.14 Following a series of ownerships and uses of the site, including during the Civil War when the enclosing walls regained their defensive purpose during the Siege of York (1643-4), the Mint Yard was purchased by the City in 1675.

5.15 In 1822 The Yorkshire Philosophical Society prefaced a sustained interest in the management of the site to reveal and protect its 'antique' ruins and archaeology. Mint Yard, including Library Lawn and St Leonards Hospital ruin were conceived as a 'garden of antiquities'. The final stage in the creation of the modern site was the construction of the Central Library, now York Explore by Brierley and Rutherford (1927 and 1938). The west wing facing the Library Lawn is designed with as much formality and quality as the front elevation, and was clearly intended to be a principal front to be viewed from the Lawn and, over the top of the Abbey wall, from the Museum Gardens.

5.16 At the beginning of the Second World War an air raid shelter was constructed beneath the Library Lawn, which seemed to involve the levelling of the formerly sloping Victorian garden. The clearance of the shelter after the war apparently presaged the current arrangement of the Library Lawn, constituting a fairly formal space with rectangular lawn, limited planting and a straight path between lawn and the Library. Repair works took place in the 20<sup>th</sup> century.

## Assessment

5.17 The objections from interest parties and neighbours, together with objections from Yorkshire Gardens Trust (statutory consultee), Guildhall planning panel, Conservation Areas Advisory Panel, York Civic Trust and CYC officers identify harm to aesthetic and communal heritage values of the site caused by the proposed mini-golf course on the setting of these designated assets of the highest significance, which also have additional group value due to their proximity and juxtaposition within and surrounding Mint Yard. Whilst there is no direct physical harm to the buildings and structures, the NPPF makes it clear that significance derives not only from a heritage asset's physical presence, but also from its setting. Grade I listed buildings are of the highest value and of exceptional interest. Scheduled monuments are archaeological sites of national interest, also of the

highest value and exceptional interest. St Leonard's Hospital Remains and City Walls, the Multangular Tower, the Anglian Tower and The City Wall from the Multangular Tower to the rear of No.8 St Leonards Place are all of this exceptional interest. Of lesser value, but still significant, are the Grade II listed Central Library, Grade II Registered Park: Museum Gardens and the character and appearance of the conservation area.

5.18 The proposed mini-golf is considered to harm the setting of these nationally significant designated heritage assets surrounding the site, by largely removing the lawn from which they are currently viewed and appreciated, with the introduction of a busy activity, artificial pleasure ground of miniature buildings, artificial mounds, paths and course detailing. Lines of sight will be obscured, access will be restricted to view the historical structures at close range, and in panorama, and the tranquil setting lost. The mini-golf course would introduce a novel landscape design, incongruous materials and forms of activity in the Library Lawn area. The course will represent a much busier landscape design with paths, model monuments and structures, information boards, planting and a large number of artificial and colourful materials which would contrast with the sober built and landscape character and natural materials of the existing site. The eye would be drawn to the mini-golf course, and views disrupted of the surrounding historic landscape, currently enjoyed and valued by local residents and visitors alike.

5.19 The area of existing lawn would no longer be a foil for the surrounding monuments but a focal point, and the activity generated by the commercial visitor attraction would transform the general peace and solitude of the area. It would prevent tour guides, and those visiting, to appreciate the monuments at various points within the Lawn, nor appreciate the full 360 degree panoramic setting of the space. The latest revised site plan takes the course right up to the City Wall and the grass margin removed to be replaced by artificial surfacing and ornamental planting. The 2m grass buffer shown on previous plans has been removed and any access for maintenance of the wall prevented. This increases the harm to setting.

5.20 The defined harm is therefore to the aesthetic and communal heritage values of the site and setting of these scheduled monuments and listed buildings, and the character of this part of the conservation area by creating a busy activity in a currently sombre and peaceful location. A moderate level of harm to significance is identified, in the less than substantial category, to the setting of these structures both individually, with the greatest harm attributed to those immediately bordering the space (St Leonard's Hospital Remains, Multangular Tower, City Walls, Library),

and as a group, and to the character and appearance of this part of the conservation area and to the setting of the historic park. The Museum Gardens planning policy is very clear that the significance of the setting must be conserved and or enhanced, and that any harm must thus be given very great weight considering the exceptional interest of the site, and should be clearly and convincingly justified. The harm is to numerous designated assets of the highest significance, although the harm identified would be less than substantial within the meaning of the NPPF. In such circumstances, paragraph 202 of the NPPF identifies that the public benefits of the proposals, which includes where appropriate securing the optimal viable use of the heritage asset, should be assessed in terms of outweighing the harm.

5.21 The justification for this harm put forward is additional income generation for the York Explore Library as a public facility, general deterrent for anti-social activity currently experienced in the area through increasing activity in this space, and as an accessible facility providing an educational experience and fun activity for tourists and locals.

5.22 No details have been provided of the level and type of anti-social activity which could be deterred by other less harmful means, or alternative ways to bring more people and activity into the space from community and cultural events, genuinely temporary in nature with temporary structures (e.g. marquees, stage for performances), more security personnel, CCTV, more seating). These alternatives have neither been presented, nor discounted. There are alternative mini-golf facilities in the city centre at The Hole in Wand, Coppergate, and out of centre at Puttstars, Monks Cross..

5.23 The identified harm has not been clearly and convincingly justified and public benefits would need to be fairly substantial to outweigh the scale of the harm identified to the setting of numerous designated heritage assets of the highest significance, plus the character and appearance of the conservation area, the grade II library and registered park (Museum Gardens). There are a variety of opportunities that could be explored for income generation for York Explore other than leasing the Lawn for mini-golf, including for genuine temporary (short term) community and cultural events as highlighted by objectors.

5.24 There are also concerns that the proposed plans are illustrative. The photomontages in the design guide show a scheme in context but we do not have details at this stage. Despite requests for an 'existing' drawing showing the designated assets and Roman Oven, and then superimposed on the course, this

has not been forthcoming. The replacement of the concrete path with York flagstones on drawings, as requested, has not been made. Detailed landscaping and a maintenance plan could be conditioned but in highly sensitive context, the preference is for detailed plans prior to decision and amendments shown on revisions to such plans including but not limited to a 2m buffer of lawn to the city walls (which in the latest revision of the site plan has been completely removed), protection and buffer to the Roman oven, details of the ticket sales and golf club storage, and a management plan for visitors and queuing.

5.25 The proposals are therefore contrary to section 16 of the NPPF at paragraphs 199, 200, 202 and 206 through the unjustified harm to the setting of designated heritage assets of the highest significance, to which is given great weight, and to which there are no defined public benefits that mitigate or outweigh this level of harm.

### **Temporary Planning Permission**

National Planning Practice Guidance: Use of Planning Conditions (March 2014)

5.26 The applicant has advised that they are applying for a temporary permission for seven years. National Planning Practice Guidance explains it is rarely justifiable to grant a second temporary permission, but further permissions should normally be granted permanently or refused if there is a clear reason for doing so. Temporary permissions are usually only appropriate where a trial run is needed in order to assess the effect of the development on an area or where it is expected that the planning circumstances will change in a particular way at the end of that period, or for the temporary use of land prior to any longer-term proposals coming forward (e.g. a larger regeneration project such as Spark, Piccadilly. This is not the case here). A condition requiring demolition of a building or structure that is clearly intended to be permanent is unlikely to pass the test of reasonableness (para. 14).

Historic England's Guidance on Temporary Structures in Historic Places (2010)

5.27 HE advise that temporary structures are not appropriate in every location and need to be carefully positioned and designed to avoid potentially disfiguring or damaging sites of heritage importance. The length of time for which a structure is erected is an important factor in assessing its impact (para.6.10) and defines 'temporary' as 'short term events' in days or weeks and 'longer duration' events in months.

## Assessment

5.28 The application is described as a temporary facility for seven years, not weeks of months as stipulated by the HE guidance. In planning terms, the siting of the mini-golf course for seven years as a permanent facility throughout the year, is not considered to reasonably fall within the definition of “temporary” and the proposal should be assessed as a permanent structure. The course is set into the ground and comprises of solid materials (unlike a marquee, timber stage for events, or portacabin). It is considered, therefore, that it would not meet the planning test of reasonableness to condition the time period of the development to seven years, as the mini-golf construction is of permanent materials and scope. If it is considered acceptable now, it would be considered acceptable for an indefinite time period.

5.29 Officers consider the harm to visual impact, ambience and appreciation of the place is significant, whether temporary or otherwise. If planning permission is to be granted, it must be understood that any renewal of such permission would be extremely hard to resist, any condition limiting the development to a time period is not reasonable, and could potentially be removed on these grounds through an application under the provisions of Section 73 of the Town and Country Planning Act 1990 (or subsequent appeal). Finally, any alternative commercial venture in the space would be assessed against the space with mini-golf installed, rather than the neutral foil of lawn as is. Any harm to the setting of the designated heritage assets of the highest significance should thus be considered permanent.

## **Design**

National Planning Practice Guidance (2021)

5.30 The NPPF sets out requirements on achieving well-design places at Section 12 stating that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what planning and the development process should achieve (para 126). Planning decisions should ensure that developments will (para 130):

- Function well and add to the overall quality of the area;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- Are sympathetic to local character and history, including the surrounding built environment and landscape setting;
- Maintain a strong sense of place;
- Create places that are safe, inclusive and accessible which promote health and well-being with a high standard of amenity for existing and future users where crime and disorder, and fear of crime do not undermine quality of life.

5.31 Development that is not well-designed should be refused (para 134).

Publication Draft Local Plan (2018)

5.32 Policy D1 'Placemaking' in the eLP requires development to enhance York's special qualities and better reveal the significances of the historic environment. Development proposals that fail to make a positive design contribution to the city or cause damage to the character and quality of an area should be refused. Proposals should enhance and complement the character of landscape, city parks and open space, planting and boundary treatment. Appropriate building materials should be used. Policy GP1 in the 2005 plan requires development proposals to be of a layout and design that is compatible with neighbouring buildings, spaces and the character of the area, using appropriate building materials.

Assessment

5.33 Notwithstanding that officers have advised that the application would be recommended for refusal, the applicant has been advised to confirm various elements of the design and prepare revisions to reduce the level of harm.

5.34 However, information has not been supplied showing features of importance on an existing site plan, i.e. Roman sarcophagi (coffins), Roman Oven, benches etc. nor for this information to be overlain on the proposed plan, so it is clear what remains in situ and what is to be moved. Confirmation of the proposed layout and buffer to the City Walls of 2m (inconsistency between the site plan and planting plan) has been requested, in addition to a revision to the proposed plans showing natural York Stone flags to the permanent path adjacent to the Library rather than in-situ cast concrete 'slabs' to be installed instead of the existing gravel path, a more muted colour palate, refinement of planning proposals by a suitable landscape architect to complement the qualities of planning in the Museum Gardens, an undertaking to provide significant funding for a consistent and holistic scheme of

interpretation for the Mint Yard area as a whole, and a historical interpretation specialist to verify and refine the historical information.

5.35 Whilst the applicant states that the course will be high quality, it includes kerbed paths of concrete with imprinted shapes and surfaces, rubber mulch, resin flexipave, and permeable grass-coloured carpet putting surface, models of buildings and other features in 'art concrete' modelled and coloured to resemble natural materials, up to 900mm in height, information plinths, with areas between holes dressed with pebbles or bark chippings and intermittent low level planting. The dominance of artificial materials and surfaces will be discordant with the remaining grassed lawn and stonework of the historic monuments and Library. The emerging Local Plan is clear that development must enhance York's special qualities, and that appropriate materials are used. Artificial grass, imprinted concrete, coloured concrete, and rubber mulch are considered incongruous in this setting and will not preserve nor enhance the city's special qualities.

5.36 The applicant has advised that customers will be served from outside the site. The agent has advised this could be a person with a ticket machine and carrying golf balls and clubs. Customers waiting to play would presumably queue in the lawned buffer areas to the north or south of the course.

5.37 The proposals are considered to be of poor design, using inappropriate materials for the sensitive historic context. They do not enhance York's special qualities and are thus contrary to emerging local plan policies.

### **Loss of open space and impact on health and well being**

National Planning Policy Framework (2021)

5.39 In promoting sustainable development as a golden thread running through planning, the NPPF at paragraph 8(b) underlines the social objective of supporting strong, vibrant and healthy communities ... fostering well designed, beautiful and safe places, with ... open spaces that reflect current and future needs and support communities health, social and cultural well-being.'

5.40 The promotion of healthy and safe communities continues at section 8 requiring planning to ensure the provision of high quality public space to encourage the active and continual use of public areas, and to ensure they are safe from crime and disorder. Development should support healthy lifestyles and wellbeing (para.

92). Planning decisions should plan positively for the provision and use of shared spaces and community facilities (including open space), guarding against the unnecessary loss of valued facilities (para. 93). It continues at paragraph 98 stating that access to a network of high quality open space is important for health and well-being of communities.

5.41 Paragraphs 99 and 100 state that existing open space should not be built on unless (a) an assessment has been undertaken that clearly shows the open space to be surplus to requirements; or (b) the loss would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or (c) the development is for alternative sport and recreation provision, the benefits of which clearly outweigh the loss of the current or former use. Planning decisions should protect and enhance public rights of way and access.

Publication Draft Local Plan (2018)

5.42 The City Centre Policies Map in the eLP identifies the site as 'existing open space'. The following policies are relevant:

- DP2 'Sustainable development' requires development to conserve and enhance York's green infrastructure;
- DP3 'Sustainable communities' requires development to respect and enhance the historic character, green spaces and landscape of York;
- GI5 Protects open space and playing fields. It states development proposals which would harm the character of, or lead to the loss of open space of environmental or recreational importance will not be permitted unless the open space uses can be satisfactorily replaced in the area of benefit in terms of quality, quantity and access with an equal or better standard that that which is proposed to be lost.

Assessment

5.43 The proposals would result in the loss of open space which is clearly of significant recreational and well-being value to local residents and those working in the city. This loss of open space is as a result of the commercial use of the majority of the Lawn, which is currently publicly accessible when the gates are unlocked during library hours. Whilst it is less busy than the adjacent Museum Gardens, it is this tranquillity that is reported as being particularly valued. No alternative or replacement provision has been proposed. In any instance, the space is considered

unique, due to its ambience and aesthetic value as a result of the designated heritage assets which define the space, that it is considered to be irreplaceable. It is concluded that the principle of the loss of the publicly accessible open space does not meet the requirements of Policy GI5 of the eLP.

### **Amenity considerations**

5.44 In terms of amenity there are two strands; potential impact on the customers of the Central Library from the additional noise and activity, and impact on local residents.

#### National Planning Policy Framework (2021)

5.45 Section 8 of the NPPF protects community facilities which includes open space (discussed above) but also facilities such as libraries. Paragraph 93 requires planning decisions to provide the social, recreational and cultural facilities and services the community needs to enhance the sustainability of communities. They should guard against the unnecessary loss of valued facilities and services, ensuring such facilities can develop and modernised and are retained for the benefit of the community.

5.46 Paragraph 130 requires planning decisions to ensure developments will function well and add to the overall quality of the area. They should also create places which promote health and well-being with a high standard of amenity for existing and future users.

#### Publication Draft Local Plan (2018)

5.47 Emerging policy ENV2 of the eLP protects environmental quality stating that development will not be permitted where existing communities would be subject to significant adverse environmental impacts such as noise, and lighting, without effective mitigation measures. Accompanying text explains that this is most likely where the development is in an inappropriate location which results in loss of amenity, affecting people's quality of life.

5.48 Concerns were raised by environmental health officers on the impact of increased noise and activity on users of the Library, particularly the study and research area at first floor where large windows, often open, face directly towards Library Lawn. They requested a noise survey. Local residents expressed concerns

about noise and activity and potential nuisance. However, the submitted noise report confirms that anticipated noise levels would be at acceptable levels. A condition could be attached on hours of use.

## **Highways and access**

5.49 As a facility in the city centre, existing access and public transport connections are considered to be suitable with no additional requirements. General cycle storage is available throughout the city centre and it would not be appropriate to secure additional on Library Lawn. Neighbours have expressed concerns about Library Square used increasingly for dropping off customers for the mini-golf, exacerbating existing issues with indiscriminate parking, but that would be an issue for parking enforcement to control.

## **6.0 CONCLUSION**

6.1 The proposal for a mini-golf course on Library Lawn in the city centre is not supported. There is moderate level of harm within the less than substantial category to the setting of designated heritage assets of the highest significance individually and for their group value in Mint Yard, with monuments spanning York's 2000 year history. This harm is caused by the removal of the neutral green foil of the lawn and replacement with a busy mini-golf course constructed of artificial materials, including miniature buildings and structures from coloured concrete, with rubber mulch, resin flexi-pave and imprinted concrete surfacing. The statutory duty in Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposal would be harmful to the significance of the Conservation Area and neither its character nor appearance would be preserved or enhanced and would have an adverse effect on the significance of designated heritage assets. These harms would be less than substantial within the meaning of the NPPF. Any such harm nevertheless is given great weight in accordance with paragraph 199 of the NPPF and fails to be outweighed in the heritage balance with the public benefits of the development. The harm is not clearly and convincingly justified and is not outweighed by sufficient public benefits. Therefore, in accordance with paragraphs 199 and 202 of the NPPF, the public benefits do not outweigh the great weight to be given to the less than substantial harm identified.

It is therefore contrary to Section 16 of the NPPF and emerging policies D4, D5, D8 and D10 of the eLP. Further to this the design is inappropriate for the historic

context and is thus not in accordance with Section 12 of the NPPF and D1 Placemaking.

6.2 There is also harm caused by the commercialisation and therefore loss of public open space which is unique in character, is not surplus to requirements and cannot be replaced with space of equivalent value. As such it is contrary to section 8 of the NPPF and emerging policies DP3 and G15 of the eLP.

## **7.0 RECOMMENDATION: Refuse**

1 The site is part of the historic Mint Yard enclave, lying wholly within the City Walls scheduled monument, and bounded by St Leonard's Hospital ruins, Roman Multangular Tower and City Wall, Anglian Tower, each listed Grade I, and the Central Library (Grade II) and Museum Gardens (Historic Park Grade II) and within the Central Historic Core Conservation Area. There is a moderate level of harm to aesthetic and communal heritage values of the site, in the less than substantial category, to the setting of these buildings, and the character and appearance of this part of the conservation area through the loss of simple lawned setting to these monuments and its replacement with a mini-golf course. Great weight is given to this harm. It is not clearly justified nor outweighed by public benefits. The proposals are therefore contrary to section 16 of the National Planning Policy Framework (2021) particularly paragraphs 199, 200, 202 and 206 and policies D4 'Conservation Areas', D5 'Listed Buildings', D8 'Historic Parks and Gardens' and D10 'York Walls' of the Publication Draft Local Plan (2018).

2 The proposal is not considered good design. The proposed artificial materials and site layout are not sufficiently sympathetic to the historic setting, a 2m buffer to the walls has not been confirmed and recommendation on the use of good quality materials not adopted through the submission of revised plans. The miniature buildings would appear entirely incongruous. As such, the proposals are considered to represent poor design, using inappropriate materials for the context, not enhancing York's special qualities, harming the historic landscape, and for the lack of clarity on how the course will function in terms of ticketing and queuing on the green buffer areas. It is therefore not in accordance with paragraphs 126, 130 and 134 of the National Planning Policy Framework 2021 and contrary to policy D1 'Placemaking' of the Publication Draft Local Plan 2018.

3 Library Lawn is identified as 'existing open space' on the City Centre Policies Map of the Publication Draft Local Plan (2018). It is freely accessible to the general

public during library opening hours. The proposed mini-golf course commercialises the open space and prevents general access and thereby results in a loss of open space which is of significant value to the community as a recreational and cultural resource and for health and well-being. No replacement open space is proposed to compensate for the loss, and as the character of its setting is so unique, it is nevertheless considered irreplaceable. The loss of open space is therefore contrary to paragraphs 99 and 100 of the National Planning Policy Framework 2021 and policies DP2 'Sustainable Development' and GI5 'Protection of Open Space' in the Publication Draft Local Plan 2018.

## **8.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL'S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

Advised at pre-application stage that the scheme was not supportable. Suggested design improvements to reduce the harm; these have not been incorporated.

However, the applicant/agent was unwilling to withdraw the application, resulting in planning permission being refused for the reasons stated.

#### **Contact details:**

**Case Officer:** Sophie Prendergast

**Tel No:** 01904 555138